



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 30, 1998

Ms. Lisa Ortiz Aguilar
Assistant City Attorney
City of Corpus Christi
Legal Department
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR98-0275

Dear Ms. Aguilar:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 112191.

The City of Corpus Christi (the "city") received a request for various information relating to the position of Assistant Animal Control Supervisor. You state that the city is providing information requested in items 1, 2, 4, 5 and 7. You also state that there are no documents related to items 6 and 8. Additionally, you state that the city is seeking clarification of item 9. *See* Gov't Code 552.222. The city asserts, however, that the information contained in item 3 is excepted from disclosure under section 552. 103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.103(a) of the Government Code excepts from disclosure information:

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

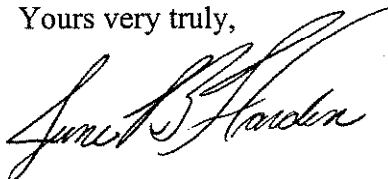
(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To show that section 552.103(a) is applicable, the city must demonstrate that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. Section 552.103 requires concrete evidence that litigation may ensue. To demonstrate that litigation is reasonably anticipated, the department must furnish evidence that litigation is realistically contemplated and is more than mere conjecture. Open Records Decision No. 518 (1989) at 5. Whether litigation is reasonably anticipated must be determined on a case-by-case basis. Open Records Decision No. 452 (1986) at 4.

In this instance, you state that the city has received notice that an unsuccessful applicant for this position has filed a grievance. You state that the requested "information is the gravamen of the grievance." However, we conclude that you have not shown that litigation is pending or reasonably anticipated under these circumstances. *See* Open Records Decision No. 588 (1991). The documents may not, therefore, be withheld pursuant to section 552.103.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/glg

Ref.: ID# 112191

Enclosures: Submitted documents

cc: Mr. M. Orlando Narvaez
4329 Kostoryz
Corpus Christi, Texas 75415
(w/o enclosures)